

MinterEllison

22 December 2022

BY EMAIL ONLY

David Hatfield
Director | Adjudication
Merger & Authorisation Review Division
Australian Competition & Consumer Commission
david.hatfield@accc.gov.au

Copy to: hannah.ransom@accc.gov.au and alex.cicchini@accc.gov.au

Dear Mr Hatfield

State of Victoria as represented by the Department of Health for interim authorisation AA1000567 – ongoing reporting obligations

1. On 2 December 2021 the Australian Competition and Consumer Commission (**ACCC**) granted authorisation to the Department of Health (the **Department**), together with specified private healthcare providers and public hospitals and healthcare facilities operating in the State of Victoria (together, the **Applicants**) to:
 - (a) discuss, enter into and give effect to contracts, arrangements or understandings which have the broad purpose of maximising healthcare capacity and ensuring the State-wide coordination of healthcare services to facilitate the most efficient and effective allocation of healthcare during the period of the COVID-19 pandemic; and
 - (b) engage in other conduct that is related to the contracts, arrangements or understandings referred to above and is necessary or desirable to give effect to the Agreements and facilitate the objectives of the Agreements, at the request or direction of the Department or a Victorian public hospital or healthcare facility,

(the **Proposed Conduct**), (the **Authorisation**).
2. The Authorisation is subject to the following conditions:
 - (a) Subject to paragraph (b) below, the Department must provide updates to the ACCC on a quarterly basis (or as otherwise agreed with the ACCC), describing any conduct engaged in during that quarter in reliance upon this authorisation.
 - (b) If no conduct was engaged in during that quarter in reliance upon this authorisation, or if there has been no change in conduct since the last update was provided, the Department is not required to provide an update.
3. The purpose of this letter is to provide the information necessary to comply with the conditions, which is set out in the **Annexure** to this letter.
4. The Annexure to this letter contains information that is confidential to the Department. This confidential information has been highlighted in the Annexure in red highlighting. The Department requests that the ACCC treat the highlighted information as strictly confidential (subject to its usual confidentiality provisos) and that it be redacted from this document prior to publication on the ACCC's public register.

Please let us know if the ACCC has any questions.

Yours faithfully

MinterEllison

Contact: Tom Faulls T: 

Partner: Geoff Carter T: 

Annexure – Reporting Requirements

1. Meeting of the Private Hospital Coordination Group (PHCG)

We have set out below a summary of relevant matters discussed at the meeting of the PHCG that occurred on 7 September 2022. We note that the minutes for this meeting were still being finalised when our last reporting letter was submitted to the ACCC on 30 September 2022.

We are instructed that the 7 September 2022 meeting of the PHCG was the final meeting of the PHCG.

Meeting date	Summary of relevant matters discussed
7 September 2022	<p data-bbox="416 506 1489 629"><u>Covid situation report and update</u> <i>Discussed matters associated with staffing, including trends in the number of furloughed staff, matters associated with an educational campaign on vaccinating children and the trends in COVID infections and hospitalisations.</i></p> <p data-bbox="469 629 1453 949">• [REDACTED]</p> <p data-bbox="416 976 1489 1099">Winter Response Plan (WRP) update <i>Discussed de-escalation of WRP to stage 2, expected National Cabinet decisions rules regarding the isolation of healthcare workers, the definition of COVID cases across states and preparation for future COVID surges.</i></p> <p data-bbox="469 1099 1453 1509">• [REDACTED]</p> <p data-bbox="416 1536 1489 1720"><u>Information Sharing</u> Update on engagement with private Operators <i>Discussed de-escalation of the WRP and matters associated with the proposed transition to the use of surge agreements with Private Hospitals, including the operation of the agreements, the benefits of having the agreements in place and matters relating to the transition to those agreements.</i></p> <p data-bbox="469 1720 1453 1982">• [REDACTED]</p>

Meeting date	Summary of relevant matters discussed
	<ul style="list-style-type: none"> • [Redacted] <p>Update on elective surgery backlog <i>Discussed potential strategies for addressing inadequacies in current elective surgery system.</i></p> <ul style="list-style-type: none"> • [Redacted] <p>Mental Health update <i>Discussed potential strategies for dealing with increase in patients presenting with mental health issues as a result of COVID, including options to access private hospital capacity.</i></p> <ul style="list-style-type: none"> • [Redacted]

2. Meeting of the Day Procedure Centre CEO (DPC)

We have set out below a summary of relevant matters discussed at the meetings of the DPC that have occurred since 13 September 2022. We note that the minutes for the 13 September meeting were still being finalised when our last reporting letter was submitted to the ACCC on 30 September 2022.

We are instructed that the 25 October 2022 meeting of the DPC was the final meeting of the DPC.

Meeting date	Summary of relevant matters discussed
13 September 2022	<p><u>COVID situation report and update</u> Update from Deputy State Controller <i>Discussed the trends in COVID infections and hospitalisations, matters associated with staffing and demand, including the number of furloughed staff and workforce capacity.</i></p> <p>[REDACTED]</p> <p>Health Services Winter Response Plan <i>Discussed de-escalation of WRP.</i></p> <p>[REDACTED]</p> <p><u>Information sharing</u> PHFA update <i>Discussed matters associated with the PHFA, including its conclusion and strategies in place for future COVID waves (such as surge and local elective surgery contracts).</i></p> <p>[REDACTED]</p> <p>Update on participation in elective surgery catch up <i>Discussed matters associated with the elective surgery catch-up strategy, including interest/ability/status of facilities to participate in catch up.</i></p> <p>[REDACTED]</p>
25 October 2022	<p>Update from the Deputy State Controller <i>Discussed update from the Deputy State Controller, including expiry of pandemic declaration, current international situation and updates to COVID workforce recommendations.</i></p> <p>[REDACTED]</p>

Meeting date	Summary of relevant matters discussed
	<p>[REDACTED]</p> <p>Round table Q & A <i>Discussed matters related to the expiry of PHFA.</i></p> <ul style="list-style-type: none">[REDACTED] <p>[REDACTED]</p>